

EXHIBIT 12

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CHASOM BROWN, WILLIAM BYATT,)
JEREMY DAVIS, CHRISTOPHER)
CASTILLO, and MONIQUE TRUJILLO,)
individually and on behalf of)
all other similarly situated,)
Plaintiffs,)
v.)
GOOGLE, LLC,)
Defendant.)

DEPOSITION OF GLENN BERNTSON
VOLUME I
REMOTELY IN LOS ANGELES, CALIFORNIA
FRIDAY, MARCH 18, 2022

REPORTED BY: NATALIE PARVIZI-AZAD, CSR, RPR, RSR
CSR NO. 14125
JOB NO.: 5142481

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION
4 _____
5)
6 CHASOM BROWN, WILLIAM BYATT,)CASE NO.:
7 JEREMY DAVIS, CHRISTOPHER)
8 CASTILLO, AND MONIQUE TRUJILLO,)5:20-cv-03664-
9 INDIVIDUALLY AND ON BEHALF OF)LHK-SVK
10 ALL OTHER SIMILARLY SITUATED,)
11)
12 Plaintiffs,)
13)
14 v.)
15)
16 GOOGLE, LLC,)
17)
18 Defendant.)
19 _____)
20)
21)
22)
23)
24)
25)

DEPOSITION OF GLENN BERNTSON, VOLUME I
TAKEN ON BEHALF OF THE PLAINTIFFS
REMOVED VIA ZOOM VIDEO CONFERENCING, IN
LOS ANGELES, CALIFORNIA, BEGINNING AT
10:36 A.M. AND ENDING AT 5:01 P.M., ON
FRIDAY, MARCH 18, 2022, BEFORE
NATALIE PARVIZI-AZAD, CERTIFIED SHORTHAND
REPORTER NUMBER 14125.

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1 APPEARANCES
2
3 FOR THE PLAINTIFF, CHASOM BROWN, WILLIAM BYATT,
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21
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25

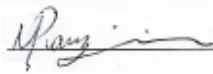
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<p>1 they'll have different user agent strings.</p> <p>2 So at -- and if you recall, I talked</p> <p>3 about, sort of, information that's sent as part</p> <p>4 of a header, which is what the browser itself</p> <p>5 collects and then sends on an HTTP request, as 15:16:21</p> <p>6 being different than what the Ad Manager's</p> <p>7 script on the page would collect. If I can</p> <p>8 reinterpret your question as, "Does Google Ad</p> <p>9 Manager change what information it collects by</p> <p>10 merit of a given browser running on a different 15:16:39</p> <p>11 client platform," the answer is no. It sends</p> <p>12 the same information, though the information</p> <p>13 is -- could be different by merit of what the</p> <p>14 browser does in terms of the different content</p> <p>15 in the user agent string. 15:16:59</p> <p>16 BY MS. BONN:</p> <p>17 Q. Does Ad Manager change what -- the</p> <p>18 type of data it collects as a result of a user</p> <p>19 browsing in Chrome Incognito mode as opposed to</p> <p>20 Chrome regular mode? 15:17:16</p> <p>21 A. Ad Manager doesn't know whether a user</p> <p>22 is in Incognito mode. And Ad Manager, the</p> <p>23 script client-side, collects the information</p> <p>24 that's available to it, given the instructions</p> <p>25 from the publisher, because there are cases 15:17:43</p> <p style="text-align: right;">Page 142</p>	<p>1 collects based off of whether a user has enter</p> <p>2 some private browsing mode.</p> <p>3 Again, the same answer holds. So I'm</p> <p>4 coming back to we've never designed our</p> <p>5 client-side scripts to make any determination 15:19:28</p> <p>6 or change its behavior based off of private</p> <p>7 browsing mode, but the information collected</p> <p>8 may differ because different information is</p> <p>9 available in such a mode, such as the entire</p> <p>10 set of cookies having been reset, and disabling 15:19:45</p> <p>11 third-party cookies, which is a default setting</p> <p>12 in Chrome Incognito mode now.</p> <p>13 Q. To your -- to your knowledge, if you</p> <p>14 know, is the same true with respect to the</p> <p>15 conversion tracking code, I'll call it, on the 15:20:12</p> <p>16 advertiser side, so conversion-tracking scripts</p> <p>17 or site-wide tagging. Do you know the same is</p> <p>18 true that it has not been designed to detect or</p> <p>19 alter its behavior based on whether a user is</p> <p>20 in a private browsing mode? 15:20:31</p> <p>21 MR. ANSORGE: Objection. Vague.</p> <p>22 THE WITNESS: I -- I can answer that</p> <p>23 question partially. For Chrome, code that is</p> <p>24 running on a publisher site or an advertiser</p> <p>25 site has no way of -- there is no signal that 15:20:51</p> <p style="text-align: right;">Page 144</p>
<p>1 where, based on sort of what the user has</p> <p>2 specified or what the publisher has specified,</p> <p>3 the script may collect different data. But</p> <p>4 it's what information is available and that</p> <p>5 changes when you're in -- you know, out of 15:18:01</p> <p>6 Incognito mode and then you go into Incognito</p> <p>7 mode, the -- the information that's available</p> <p>8 itself will differ.</p> <p>9 And so, the information collected by</p> <p>10 the Ad Manager script itself could be 15:18:13</p> <p>11 different, but that difference is not driven by</p> <p>12 any knowledge of being in Incognito mode, it's</p> <p>13 driven by the fact that there is different</p> <p>14 information available.</p> <p>15 Q. And would the same answer or -- I 15:18:26</p> <p>16 don't want to say -- I don't want to say the</p> <p>17 same answer, but would that same concept be</p> <p>18 true with respect to private browsing modes in</p> <p>19 other browsers like Safari private browsing?</p> <p>20 A. I -- our script that's running 15:18:44</p> <p>21 client-side has never been -- has never</p> <p>22 included a feature to try to figure out</p> <p>23 client-side, "Oh, am I running in Incognito</p> <p>24 mode or not?" So there is no difference in</p> <p>25 behavior of what the client-side script 15:19:09</p> <p style="text-align: right;">Page 143</p>	<p>1 says, "Oh, Incognito mode is on," so there is</p> <p>2 no way that coding running in a page can say,</p> <p>3 "Oh, Incognito mode is on," and therefore</p> <p>4 change its behavior, at least in Chrome. I</p> <p>5 actually don't know what's possible in other 15:21:08</p> <p>6 browsers. But in Chrome, you can't.</p> <p>7 And based on that, I don't think it's</p> <p>8 possible for Google Scripts -- whether it's</p> <p>9 Google scripts supporting Ad Manager, Google</p> <p>10 Analytics, or our advertiser products, like 15:21:23</p> <p>11 OGT -- I don't think it's possible for those</p> <p>12 client-side scripts to change what they do</p> <p>13 based on the knowledge of whether private</p> <p>14 browsing has been enabled in Chrome.</p> <p>15 BY MS. BONN: 15:21:41</p> <p>16 Q. Okay. Why don't we do this.</p> <p>17 MS. BONN: I think we're still on</p> <p>18 track to be done at 2:00 Pacific. It's like</p> <p>19 12:22. Can we just take a very short break and</p> <p>20 come back at about 12:30 or 12:35, if you folks 15:22:33</p> <p>21 want.</p> <p>22 MR. ANSORGE: Yeah, that's fine with</p> <p>23 me.</p> <p>24 THE VIDEOGRAPHER: Going off the</p> <p>25 record. The time is 12:22 p.m. 15:22:40</p> <p style="text-align: right;">Page 145</p>

<p>1 (Recess.)</p> <p>2 THE VIDEOGRAPHER: Back on the record.</p> <p>3 The time is 12:36 p.m.</p> <p>4 BY MS. BONN:</p> <p>5 Q. Okay. I'm going to have introduced 15:36:33</p> <p>6 another exhibit, which is marked for</p> <p>7 identification as Exhibit 3. Dr. Berntson, if</p> <p>8 you wouldn't mind opening it up, and just let</p> <p>9 me know when you have it available to you.</p> <p>10 (Exhibit 3 marked.) 15:36:53</p> <p>11 THE WITNESS: I'm just checking to see</p> <p>12 if it's one that I've reviewed before. Okay.</p> <p>13 I have not seen this before.</p> <p>14 BY MS. BONN:</p> <p>15 Q. Okay. For the record, this is 15:37:22</p> <p>16 Exhibit 3, Bates label GOOGCABR05404845.</p> <p>17 If you could scroll down to what</p> <p>18 should be page 11 of the PDF, or if you prefer</p> <p>19 to look at the Bates number, it's the one</p> <p>20 ending in 855. 15:37:40</p> <p>21 MR. ANSORGE: And I'm going to lodge a</p> <p>22 standing foundation objection to this document</p> <p>23 and questions relating to this document.</p> <p>24 MS. BONN: Okay.</p> <p>25 ///</p> <p style="text-align: right;">Page 146</p>	<p>1 DoubleClick.net still happen? Are there use</p> <p>2 cases where that would still happen even if</p> <p>3 there is not an Ad Manager product on the</p> <p>4 Google Analytics site?</p> <p>5 MR. ANSORGE: Objection. Foundation. 15:40:10</p> <p>6 THE WITNESS: I -- I believe so.</p> <p>7 BY MS. BONN:</p> <p>8 Q. And do you have an understanding of</p> <p>9 why that is, what purpose this request to</p> <p>10 redirect serves? 15:40:21</p> <p>11 MR. ANSORGE: Objection. Foundation</p> <p>12 and out of scope.</p> <p>13 THE WITNESS: I don't know off the top</p> <p>14 of my head. I do know that a redirect like</p> <p>15 this is used to join the Google Analytics 15:40:39</p> <p>16 first-party ID to the Biscotti ID, which is</p> <p>17 precisely what has to happen if a user list</p> <p>18 created in Google Analytics is shared with</p> <p>19 Google Ad Manager. Outside of sharing that</p> <p>20 user list with Google Ad Manager, I'm not aware 15:40:58</p> <p>21 what the use case is for this.</p> <p>22 BY MS. BONN:</p> <p>23 Q. So I want to make sure I understand.</p> <p>24 So let's say in the case of -- in the case of</p> <p>25 Ad Manager, if a publisher website had 15:41:27</p> <p style="text-align: right;">Page 148</p>
<p>1 BY MS. BONN:</p> <p>2 Q. And do you have this page in front of</p> <p>3 you? It should be a slide titled, "Ad Features</p> <p>4 and Remarketing."</p> <p>5 A. I do. 15:38:09</p> <p>6 Q. Okay. And I don't -- I don't really</p> <p>7 intend to ask you questions about this document</p> <p>8 in particular. I just thought this</p> <p>9 illustration might be helpful for some of the</p> <p>10 questions I have about how things work. 15:38:19</p> <p>11 So I want to make sure I just</p> <p>12 understand. This slide is about data that's</p> <p>13 collected through Google Analytics, and then I</p> <p>14 think where it might be redirected to.</p> <p>15 Is that, at a high level, accurate? 15:39:10</p> <p>16 MR. ANSORGE: Objection. Foundation.</p> <p>17 THE WITNESS: I'm going to say yes. I</p> <p>18 think there is more to it than just redirects,</p> <p>19 but...</p> <p>20 BY MS. BONN: 15:39:38</p> <p>21 Q. Okay. One of my questions was --</p> <p>22 let's say there was website that has Google</p> <p>23 Analytics but not, let's say, an Ad Manager</p> <p>24 product on it. Would this "Step 2: Redirect"</p> <p>25 of sending redirecting data back to 15:39:52</p> <p style="text-align: right;">Page 147</p>	<p>1 analytics, it might do this redirect, too, in</p> <p>2 order to populate a user list that would then</p> <p>3 feed into Ad Manager? Do I have that right, at</p> <p>4 a high level?</p> <p>5 MR. ANSORGE: Objection. Foundation 15:41:43</p> <p>6 and out of the scope.</p> <p>7 THE WITNESS: To clarify, Google</p> <p>8 Analytics, without any of these redirects, can</p> <p>9 be used by a publisher to understand what parts</p> <p>10 of the site they visit, how often, et cetera. 15:42:00</p> <p>11 And as part of that, using Google Analytics,</p> <p>12 they can say, "Give me a list of everybody</p> <p>13 who's visited, say, my sports section." And</p> <p>14 so, inside Google Analytics, it'll list all of</p> <p>15 the Google Analytics first-party IDs, the CIDs, 15:42:17</p> <p>16 of everybody who, say, has visited this</p> <p>17 particular section of their site.</p> <p>18 So that's what's referred to as a user</p> <p>19 list. If they wanted to share that user list</p> <p>20 with Google Ad Manager, they would need to go 15:42:33</p> <p>21 through this redirect to DoubleClick.net. The</p> <p>22 redirect to DoubleClick.net is where the</p> <p>23 Biscotti cookie, which is actually associated</p> <p>24 with the DoubleClick.net domain, in order to</p> <p>25 access that third-party cookie and, say, this 15:42:53</p> <p style="text-align: right;">Page 149</p>

<p>1 MS. BONN: Great. Likewise. Maybe we 2 can go off the record for the moment. 3 MR. ANSORGE: Yeah. I'm fine with 4 that. We can go off the record. Thanks. 5 THE VIDEOGRAPHER: This concludes the 17:01:29 6 deposition. We're going off the record at 7 5:01 p.m. 8 (Deposition concluded at 5:01 P.M.) 9 -oOo- 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: right;">Page 182</p>	<p>1 CERTIFIED STENOGRAPHER'S CERTIFICATE 2 STATE OF CALIFORNIA)) SS. 3 COUNTY OF LOS ANGELES) 4 5 I, NATALIE PARVIZI-AZAD, HERBY CERTIFY: 6 I AM A DULY QUALIFIED CERTIFIED SHORTHAND 7 REPORTER IN THE STATE OF CALIFORNIA, HOLDER OF 8 CERTIFICATE NUMBER CSR 14125 ISSUED BY THE COURT 9 REPORTERS BOARD OF CALIFORNIA AND WHICH IS IN FULL 10 FORCE AND EFFECT. (BUS. & PROF. § 8016) 11 I AM NOT FINANCIALLY INTERESTED IN THIS 12 ACTION AND NOT A RELATIVE OR EMPLOYEE OF ANY 13 ATTORNEY OF THE PARTIES, OR OF ANY OF THE PARTIES. 14 (CIV. PROC. § 2025.320(A)) 15 I AM AUTHORIZED TO ADMINISTER OATHS OR 16 AFFIRMATIONS PURSUANT TO CALIFORNIA CODE OF CIVIL 17 PROCEDURE, SECTION 2093 (B) AND PRIOR TO BEING 18 EXAMINED, THE DEPONENT WAS FIRST PLACED UNDER OATH 19 OR AFFIRMATION BY ME. (CIV. PROC. §§ 2025.320, 20 2025.540(A)) 21 I AM THE CERTIFIED OFFICER THAT 22 STENOGRAPHICALLY RECORDED THE TESTIMONY IN THE 23 FOREGOING PROCEEDING AND THE FOREGOING TRANSCRIPT 24 IS A TRUE RECORD OF THE TESTIMONY GIVEN. (CIV. 25 PROC. § 2025.540(A))</p> <p style="text-align: right;">Page 184</p>
<p>1 STATE OF CALIFORNIA)) SS. 2 COUNTY OF LOS ANGELES) 3 4 5 I, GLENN BERNTSON, HEREBY CERTIFY UNDER 6 PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF 7 CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT. 8 EXECUTED THIS ____ DAY OF _____, 9 2022, AT _____, CALIFORNIA. 10 11 12 13 14 15 GLENN BERNTSON 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: right;">Page 183</p>	<p>1 I HAVE NOT, AND SHALL NOT, OFFER OR PROVIDE 2 ANY SERVICES OR PRODUCTS TO ANY PARTY'S ATTORNEY 3 OR THIRD PARTY WHO IS FINANCING ALL OR PART OF THE 4 ACTION WITHOUT FIRST OFFERING SAME TO ALL PARTIES 5 OR THEIR ATTORNEYS ATTENDING THE PROCEEDING AND 6 MAKING SAME AVAILABLE AT THE SAME TIME TO ALL 7 PARTIES OR THEIR ATTORNEYS. (CIV. PROC. § 8 2025.320(B)) 9 I SHALL NOT PROVIDE ANY SERVICE OR PRODUCT 10 CONSISTING OF THE CERTIFIED STENOGRAPHER'S 11 NOTATIONS OR COMMENTS REGARDING THE Demeanor OF 12 ANY WITNESS, ATTORNEY, OR PARTY PRESENT AT THE 13 PROCEEDING TO ANY PARTY OR ANY PARTY'S ATTORNEY OR 14 THIRD PARTY WHO IS FINANCING ALL OR PART OF THE 15 ACTION, NOR SHALL I COLLECT ANY PERSONAL 16 IDENTIFYING INFORMATION ABOUT THE WITNESS AS A 17 SERVICE OR PRODUCT TO BE PROVIDED TO ANY PARTY OR 18 THIRD PARTY WHO IS FINANCING ALL OR PART OF THE 19 ACTION. (CIV. PROC. § 2025.320(C)) 20 DATED: MARCH 23, 2022 21 22 23  24 25 NATALIE PARVIZI-AZAD, CSR NO.14125</p> <p style="text-align: right;">Page 185</p>